United Nations A/C.6/56/SR.3

General Assembly
Fifty-sixth session

Official Records

Distr.: General
16 October 2001

Original: English

Sixth Committee

Summary record of the 3rd meeting
Held at Headquarters, New York, on Monday, 8 October 2001, at 3 p.m.

Chairman: Mr. Lelong ..... (Haiti)

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01-56879 (E)

The meeting was called to order at 3.05 p.m.

Agenda item 161: Report of the United Nations Commission on International Trade Law on the work of its thirty-fourth session (*continued*) (A/56/17)

1. **Mr. Popkov** (Belarus) said he welcomed the outcome of the thirty-fourth session of the United Nations Commission on International Trade Law (UNCITRAL). His country was making strenuous efforts to expand its foreign trade, and consequently attached great importance to the unification of the principles and norms governing international trade; it had therefore acceded to four conventions drawn up by the Commission. UNCITRAL model laws constituted a valuable source of information about generally acceptable international standards and had served as a reference point for new and better legislation in Belarus.

2. It might be possible to adopt at the current session of the General Assembly the text of the draft Convention on the Assignment of Receivables in International Trade, which would help to eliminate loopholes in regulations on commercial relations. In Belarus many aspects of the assignment of receivables were covered by the new Civil Code, which had come into force in 1999. The Code provided for two institutions of contract law, transfer of the rights of the assignor and financing on assignment of pecuniary claims, which had been based on principles contained in the draft Convention.

3. He also welcomed the adoption of the draft Model Law on Electronic Signatures and encouraged the Commission to pursue its study of issues related to electronic commerce, the latter having become the usual form of trading for an overwhelming number of firms throughout the world. In Belarus, in January 2000, a law on electronic documents had been adopted which laid the legal foundations for the use of such documents and of electronic signatures for concluding commercial transactions. His delegation was convinced that the UNCITRAL Model Law constituted a strong basis for the progressive development of legislation on electronic commerce in Belarus and other States with economies in transition.

4. With regard to the question of commercial arbitration, which had been considered by the Working Group on Arbitration, his delegation supported the interpretation given of article II, paragraph 2, of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Technical changes in the way in which international trade was conducted had led to new methods of concluding commercial contracts and that, in turn, had been reflected in arbitral agreements which did not fully satisfy the requirements of a written agreement. Hence, a unified approach to the interpretation of the provisions of the Convention, which would take account of the changes, was most necessary. The adoption of a declaration recommending that States parties to the New York Convention should interpret article II, paragraph 2, broadly, would be the best remedy at the moment, since not all States recognized the need for such a wide interpretation. Amendments to the New York Convention should likewise be considered.

5. He commended the Commission's efforts to prepare a legislative guide on insolvency. The results of the Working Group's examination of cases of insolvency and the consequences of bringing such cases gave grounds for hope that work would soon be completed on a draft guide which would play a useful role in the unification of States' laws on that subject. The guide would show legislators that an attempt had been made to balance social, economic and legal considerations. In Belarus in the year 2000 a new bankruptcy law had been passed, which had drawn on the experience of other States with more detailed regulations on the matter. Any model legislation drafted by the Commission could help Belarus to improve its insolvency laws.

6. He welcomed the initiative taken with a view to identifying areas of transport law where more uniform rules were required. The Commission's investigation of the influence of modern technologies on the legal rules governing the international carriage of goods by sea was forward-looking and laudable. The most pressing issue was the carriage of goods by means other than by sea, since no international treaty existed on that subject and a special UNCITRAL convention on that matter would therefore be a valuable contribution to international transport law.

7. His delegation supported the provision of General Assembly resolution 55/151 concerning a possible increase in the Commission's membership, but considered that any such increase should be relatively small in order to maintain the Commission's efficiency. Lastly, he urged the Commission to disseminate

information about the texts formulated under its auspices through seminars and symposiums.

8. **Ms. Long** (Singapore) observed that expanding commercial relations and new technologies were making the deliberations of the Commission increasingly important. Singapore remained committed to the goal of harmonizing international laws on international trade and was therefore pleased that, at the thirty-fourth session, the Commission had completed the drafting of a Convention on the Assignment of Receivables in International Trade, which would promote the flow of international trade by boosting the availability of credit at a lower cost.

9. Similarly, her country welcomed the draft Model Law on Electronic Signatures and the draft Guide to Enactment, since the Model Law maintained a balance between the interests of signatories, certification service providers and relying parties. The text would greatly help States in their endeavours to prepare or modernize legislation on electronic commerce.

10. Singapore was pleased that the Commission had given the Working Group the mandate to draw up a legislative guide to implementing insolvency law, since that would allow the Working Group great flexibility. The guide should not, however, be too general or abstract and, for that reason, it should include legislative provisions.

11. Singapore regarded the training and assistance provided by the Commission in order to promote uniform legal texts as important and was proud that it had been able to assist in that field in the past and would also be doing so in the future. It supported the continued operation of the system for the collection and dissemination of Case law on UNCITRAL texts (CLOUT), which was a valuable tool for international trade research into recent developments around the world.

12. Singapore supported the recommendation that the Commission's membership should be increased and believed that it was important to make sure the Commission had the requisite financial and personnel resources to continue its important work.

13. **Mr. Marschik** (Austria) said his delegation regretted that the UNCITRAL secretariat's resources were still too small in relation to its large mandate, but was pleased that proposals aimed at alleviating the secretariat's burden had been supported by the Advisory Committee on Administrative and Budgetary Questions; it was to be hoped that the General Assembly would ensure that the additional resources were provided.

14. The draft Convention on the Assignment of Receivables in International Trade met some urgent needs, since the assignment of receivables was an important means of making capital and credit available. Obstacles stemming from a confused legal situation and the divergence of national laws would have to be removed in order to create legal certainty in a complicated situation involving at least three parties. Since the Commission had had to contend with a multiplicity of legal issues and systems, the Convention was complex and therefore deserved close scrutiny. Nevertheless his delegation was convinced that once the Convention came into force and was implemented, it would provide a sound basis for international assignments of receivables and would prove to be a major achievement.

15. He observed that, while international trade was more than ready to take advantage of new technologies like the Internet and electronic communications, the crucial problem was legal certainty. By drafting a Model Law on Electronic Signatures, the Commission was fostering an internationally harmonized development of law, which would be of value to international trade. Austria had already implemented the European Union's Directive 1999/93/EC, of 13 December 1999, on a Community framework for electronic signatures, which contained several features also found in the Model Law.

16. Austria congratulated the Commission secretariat on organizing a Colloquium on Privately Financed Infrastructure in Vienna in July and endorsed the initiative to establish a Working Group to draft a core model law, because a legislative and regulatory framework for infrastructure projects would send a reassuring signal to all potential private investors and might help to attract private investment for infrastructure projects in developing States.

17. He encouraged the Commission to intensify its cooperation with organizations active in the fields of the settlement of commercial disputes, electronic commerce, insolvency law, transport law and security interests in order to avoid duplication of effort.

18. He praised the secretariat for its role in promoting awareness of the Commission's work, especially the

time-consuming collation of case law in CLOUT, and in arranging training and technical assistance seminars. The Willem C. Vis International Commercial Arbitration Moot held in Vienna in April had been an excellent means of heightening young people's awareness of international trade law.

19. He praised the Commission's success in reforming and streamlining its working methods and saw merit in enlarging the Commission to between 60 and 72 members. His country looked forward to playing an active part in the Commission's future work.

20. **Ms. Burnett** (United Kingdom) said her country was glad that a draft Convention on the Assignment of Receivables in International Trade had been approved at the thirty-fourth session, since it was a significant instrument which would enable business and lenders to reach funding agreements to the benefit of world trade. The Model Law on Electronic Signatures was also a significant piece of model legislation in an area of activity of increasing importance to all areas of commerce. Her delegation hoped that work on that subject would retain its direction and that the Working Group would proceed in a measured manner.

21. As a sound insolvency regime clearly bolstered confidence in markets, the United Kingdom had been happy to participate in the studies of the Working Group, but agreed with the conclusions of the Global Insolvency Colloquium, held in December 2000, that a model law on insolvency would not be conducive to the flexibility needed in that sphere. While the work on arbitration was moving in the right direction, the United Kingdom was similarly concerned that a model law on conciliation should not constrain or regulate too tightly a process where the main advantage was flexibility and informality.

22. The United Kingdom welcomed the inclusion of transport law in the Commission's work programme, but the fact that a whole day had been spent on discussing future possible work illustrated the potential complexity of the subject matter. For that reason, the United Kingdom urged the Commission to maintain a focused approach to studies in that area.

23. Reform of the law on security interests was an ambitious project and since it was a field where several other international organizations were active, the Commission should liaise closely with them in order to avoid duplication of effort.

24. The United Kingdom supported the proposal to increase the Commission's membership, so long as a regional balance was maintained. It had some misgivings about the increase in the Commission's workload, notwithstanding the new working methods that had been introduced. It therefore held that the key to success was the setting of priorities in order to make the best possible use of the shorter time available for each Working Group. The United Kingdom would play its part in ensuring that that time was employed productively and effectively.

25. **Mr. Fomba** (Mali) said that, although Mali was not a member of the Commission, his delegation nevertheless considered its work highly important, particularly for developing countries. It welcomed the completion of two significant instruments, the draft Convention on the Assignment of Receivables in International Trade and the UNCITRAL Model Law on Electronic Signatures and Guide to Enactment of the Model Law. It supported the Commission's recommendation to the General Assembly that it should consider the draft Convention with a view to concluding a United Nations convention on the subject at its current session. It also commended the Commission's decision to request wide dissemination of the Model Law and Guide and to recommend that all States give favourable consideration to it and to the UNCITRAL Model Law on Electronic Commerce when enacting domestic legislation.

26. With regard to privately financed infrastructure projects, his delegation concurred with the Commission's decision to entrust a working group with the task of drafting core model legislative provisions in the field of privately financed infrastructure projects. On the issue of the enlargement of the membership of the Commission, his delegation supported the proposal to increase the number of member States from 36 to 72, maintaining the current proportion between the regional groups. Lastly, it stressed the importance of training and technical assistance for developing countries and urged an appreciable increase in financial resources.

27. **Mr. Jalang'o** (Kenya) said that the draft Convention on the Assignment of Receivables in International Trade completed by the Commission at its thirty-fourth session could significantly facilitate receivables financing, thus increasing the availability of credit at a more affordable cost, to the benefit of both business and consumers. His delegation hoped to

see it adopted as a United Nations convention and opened for signature. It also welcomed the completion of the UNCITRAL Model Law on Electronic Signatures and supported the Commission's request that the Model Law and related Guide to Enactment should be transmitted to Governments for use in enacting their legislation.

28. Countries had benefited greatly from the training and assistance activities and seminars conducted by the Commission. Such assistance had enabled Kenya, for example, to incorporate UNCITRAL texts into its government procurement rules and arbitration laws. Unfortunately, financing constraints were keeping the Commission from meeting the demands of Member States and hampering the accomplishment of its core function of harmonizing and unifying international trade law. In addition to urging States and organizations to contribute to the UNCITRAL trust funds, the General Assembly should consider increasing the resources available to the Commission for training and assistance. Moreover, ways should be found, perhaps by adjusting the terms of reference of certain trust funds, to provide assistance to enable delegates from developing countries to attend UNCITRAL meetings.

29. Additional resources would also be needed to enable the Commission to tackle its increased workload, entailing three new working groups on insolvency law, transport law and security interests. His delegation supported the suggestion that each working group should be entrusted with two different topics during its session or that two working groups should share the same two-week meeting period, one session being held in the first week and the other during the second week, since those arrangements would lessen the burden on delegations that had difficulties attending the meetings and on the secretariat in servicing them.

30. His delegation was in favour of doubling the Commission's membership to 72 and did not believe that the number would undermine efficiency or increase the meetings servicing costs. The increase would enlarge the pool of experts available to the Commission, enable more delegations to justify their attendance at UNCITRAL meetings and make the Commission more representative of the membership of the Organization.

31. **Mr. Jacovides** (Cyprus) said that the Commission's report on its thirty-fourth session (A/56/17) was up to its usual high standards. The sheer number of topics dealt with, in addition to the two valuable texts completed on assignment of receivables and electronic signatures, demonstrated that the Commission's workload had been heavy in substance. His delegation particularly welcomed the comprehensive statement of key objectives in relation to insolvency law and the appropriate emphasis accorded to conciliation in the settlement of commercial disputes. It fully approved of the Commission's work on privately financed infrastructure projects, a matter of particular interest to developing countries, and on the uniform interpretation and application of international trade law conventions and uniform laws.

32. Cognizant of the need to ensure the active participation of the broadest possible number of countries, his delegation supported the proposed enlargement of the membership of the Commission and was keeping an open mind as to the number of members. Although doubling the membership would make it easy to maintain the current pattern of representation, it might also hamper efficiency. What was of prime importance was that the Commission should be representative of all legal and economic systems. The proposal of Canada for proceeding with the enlargement deserved careful consideration and support.

33. His delegation found the reasons presented for an increase in the human and financial resources available to the Commission persuasive. Cyprus, which had been in the vanguard of the initiative to create UNCITRAL, valued the Commission's role in harmonizing international trade law and particularly appreciated its work in the areas of training and technical assistance.

34. **Mr. Ascenio** (Mexico) said that his delegation fully concurred with the statement of the Rio Group on the agenda item. With regard to enlargement of the membership of the Commission, his delegation believed that 60 was the optimum number of members, because it would ensure the representative nature of the Commission without impairing its efficiency.

The meeting rose at 4.05 p.m.